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In the April 18, 2005 Office Action, the Examiner imposed a restriction requirement against claims 1-52, and required that an election be made between:

Group I: claims 1-23, drawn to a (removing (stripping)) (composition (containing at least two chemical ingredients), classified in class 430, subclass 256;

Group II: claims 24-52, drawn to a (removing (stripping)) method, classified in class 134, subclass 2.

Applicants hereby elect, with traverse, Group I claims 1-23 drawn to a removing composition.

The traversal is based on the fact that the restriction is in error. The removal composition recited in claim 1 is the same as that recited in method of use claim 24, insofar as the specifically recited components of the removal composition are concerned, and thus claim 24 is not independent and distinct from claim 1, as is necessary under 35 U.S.C. §121 as a basis for proper restriction.

It therefore is requested that the restriction requirement be reconsidered, and that all claims 1-52 be retained in consolidated form for further examination and prosecution on the merits.

If the restriction requirement nonetheless is made final, applicants alternatively request rejoinder of method claims 24-52 under the provisions of MPEP §821.04 upon confirmation of allowable subject matter of the Group I claims 1-23.

Such rejoinder would be fully proper under these circumstances for the following reasons.

When an application as originally filed discloses a product and the process for making and/or using such product, and only the claims directed to the product are presented for examination, when a product claim is found allowable, applicant may present claims directed to the process of making and/or using the patentable product for examination through the rejoinder procedure in accordance with MPEP §821.04, provided that the process claims depend from or include all the limitations of the allowed product claims.

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In the present application the elected claims 1-23 are directed to a removal composition including an active cleaning combination selected from the group consisting of: (a) a quaternary ammonium base in combination with at least one of alkali and alkaline earth base; and (b) a strong base in combination with an oxidant, and non-elected claims 24-52 are directed to a method of removing photoresist and/or SARC material from a substrate having said material thereon using said removal composition. Consistent with the provisions of the MPEP §821.04, when the product claims 1-23 are subsequently found allowable, the withdrawn method claims 24-52 should properly be rejoined for examination.

In addition, in the April 18, 2005 Office Action, the Examiner imposed an election requirement against Group I claims 1-23, and required that an election be made between:

Species I: (a) a quaternary ammonium base in combination with at least one of alkali and alkaline earth base; and

Species II: (b) a strong base in combination with an oxidant.

Applicants hereby elect, with traverse, Species I, which corresponds to claims 1-7, and 10.

The traversal is based on the fact that the strong base in Species II as defined includes potassium hydroxide (i.e., an alkali base of Species I) and alkylammonium hydroxides (i.e., a quaternary ammonium base of Species I) (see instant application, page 12, paragraph [0028]). In other words, Species II is inclusive of components of Species I, in combination with an oxidant.

According to the MPEP §803.02,

“[i]f the members of the Markush group are sufficiently few in number or so closely related that a search and examination of the entire claim can be made without serious burden, the examiner must examine all members of the Markush group in the claim on the merits, even though they are directed to independent and distinct inventions.” (emphasis added)

Clearly, Species I and Species II are so closely related that the examination of the entire claim can be made without serious burden to the Examiner.

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It therefore is requested that the election requirement be reconsidered, and that Species I and Species II, and hence all claims 1-23, be retained in consolidated form for further examination and prosecution on the merits.

If the election requirement between the elected species (Species I and II) is nonetheless made final, the Examiner is respectfully requested to examine Species II upon allowance of Species I. When examining applications with a Markush-type claim such as claim 1, the Markush-type claim is to be examined fully with respect to the elected species. Should no prior art be found that anticipates or renders obvious the elected species, the search of the Markush-type claim is to be extended to the non-elected species. See, e.g., MPEP §803.02. Accordingly, applicants request a sequential search of Species II of the Markush-type claim upon the determination of the patentability of Species I.

Further, in the April 18, 2005 Office Action, the Examiner imposed an additional election requirement against Species I claims 1-7, and 10, and required that an election be made between sub-species A-G in claim 7.

Applicants hereby elect, with traverse, sub-species G.

If the election requirement between the elected sub-species (A-G) is made final, the Examiner is respectfully requested to examine the sub-species A-F upon allowance of the sub-species G. When examining applications with a Markush-type claim such as claim 7, the Markush-type claim is to be examined fully with respect to the elected species. Should no prior art be found that anticipates or renders obvious the elected species, the search of the Markush-type claim is to be extended to the non-elected species. See, e.g., MPEP §803.02. Accordingly, applicants request a sequential search of the non-elected species of the Markush-type claim upon the determination of the patentability of the elected species.

It is also understood that upon allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all of the limitations of an allowed generic claim, as provided by 37 CFR §1.141.

Conclusion

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Based on the foregoing, claims 1-7 and 10 are in form and condition for examination. If any additional issues remain, the Examiner is requested to contact one of the undersigned attorneys at (919) 419.9350 to discuss same.

Respectfully submitted,



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